

MDSPGP CATEGORY LIST

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CATEGORY I ACTIVITIES

A. Agriculture-Related Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **Agriculture-related Repair and Maintenance:**

This activity authorizes discharges of dredged or fill material associated with repair and maintenance of aquaculture or fire protection ponds and structures associated with these ponds. This activity also authorizes discharges of dredged or fill material for repair and maintenance of fills and structures associated with the production of sod, nursery stock, Christmas trees or other non-food or fiber products. All discharges authorized by this activity must comply with the activity-specific threshold and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact includes filled nontidal wetlands plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

- b. **Conditions:**

- i) Application must be submitted to MDE.

Agriculture-related Repair and Maintenance, continued

- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The activity must be part of a State-recognized commercial enterprise.
- iv) This activity does not authorize work that qualifies for a 404(f)(1) exemption, as described in Department of the Army (DA) regulations at 33 CFR 323.4.
- v) The activity must not block or impede the movements of anadromous fish species.

2. Activities in Fallow Areas:

This activity authorizes discharges of dredged or fill material for construction of aquaculture and fire protection ponds. It also authorizes discharges of dredged or fill material for the production of sod, nursery stock, Christmas trees or other non-food or fiber products. All discharges authorized by this activity must comply with the activity-specific threshold and conditions listed below in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) The activity must be part of a State-recognized commercial enterprise.
 - iv) This activity does not authorize work that qualifies for a 404(f)(1) exemption, as described in Department of the Army (DA) regulations at 33 CFR 323.4.
 - v) The activity must be conducted on areas that have lain fallow and are part of an established and ongoing operation. However, this activity

Activities in Fallow Areas, continued

may not authorize discharges in areas that have lain fallow for 5 or more consecutive years.

- vi) The activity must not block or impede the movements of anadromous fish species.

3. **Activities in Set-Aside Areas:**

This activity authorizes discharges of dredged or fill material for the construction of aquaculture or fire protection ponds. This activity also authorizes discharges of dredged or fill material for production of sod, nursery stock, Christmas trees or other non-food or fiber products. All discharges authorized by this activity must comply with the activity-specific threshold and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact includes filled nontidal wetlands plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) The activity must be part of a State-recognized commercial enterprise.
 - iv) This activity does not authorize work that qualifies for a 404(f)(1) exemption, as described in DA regulations at 33 CFR 323.4.
 - v) The activity must be conducted in areas that are set-aside or taken out of production. The set-aside areas must comply with a formal State agriculture program, as authorized by the Agricultural Stabilization and Conservation Reserve Program, or other formal set-aside program that may be established by the Maryland or U.S. Department of Agriculture.
 - vi) This activity does not authorize discharges in set-aside areas where agricultural activity has not resumed within 5 years after expiration of the time limit specified in the set-aside program.

Farmed-Wetland Fills

4. Farmed-Wetland Fills:

This activity authorizes discharges of dredged or fill material for construction of agricultural structures essential to the continued operation of a farm. All discharges authorized by this activity must comply with the activity-specific threshold and condition listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The activity must be conducted on land that is farmed, set-aside, lying fallow, or part of a crop rotation.
- iv) This activity does not authorize work that qualifies for a 404(f)(1) exemption, as described in Department of the Army (DA) Regulations at 33 CFR 323.4.

5. Agriculture-related Wetland Conversion:

This activity authorizes conversion of wetlands as a result of conducting agricultural activities, including activities associated with aquaculture and fire protection ponds, and production of sod, nursery stock, Christmas trees or other non-food or fiber products. All discharges authorized by this activity must comply with the activity-specific threshold and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total conversion of nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

Agriculture-related Wetland Conversion, continued

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The activity must be part of an established state recognized agricultural operation.
- iv) The wetlands converted must contain no significant plant or wildlife value, as determined by a Soil Conservation District.

6. Tide Gates:

This activity authorizes construction of tide gates, designed to prevent the encroachment of salt water into agricultural drainage ditches.
(Sections 10 and 404)

Condition: Application must be submitted to MDE.

CATEGORY I ACTIVITIES

B. Landscape Management Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **Additions, Outbuildings and Accessories:**

This activity authorizes discharges of dredged or fill material for construction of additions, outbuildings and accessories to existing structures. All discharges authorized by this activity must comply with the activity-specific threshold and condition listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

b. **Conditions:**

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.

Additions, Outbuildings and Accessories, continued

- iii) The work must be conducted within a State-recognized landscape management area. As defined in COMAR 26.23.01.01, “Landscape Management Area” means an area predominantly covered with grasses or herbaceous ground cover established and maintained for horticultural purposes. The landscape management area may include a lawn, which contains trees, shrubs, or other plants.

2. Landscape Management Activities in Wetlands:

This activity authorizes discharges of dredged or fill material for landscape management work conducted in a wetland. As defined in COMAR 26.23.01.01, “Landscape Management” means to maintain or enhance vegetation on land that was planted or manipulated for horticultural purposes. Landscape management includes mowing, pruning, and private gardening, excluding agricultural activities. Discharges authorized by this activity must comply with the activity-specific threshold and condition listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The work must not change the wetland bottom elevation or contours, alter the area or extent of the wetland, or alter any existing wetland parameter.
- iv) The discharge must be associated with State-recognized landscape management activities.

CATEGORY I ACTIVITIES

C. Scientific Measurement Devices and Survey Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **Soil Investigations:**

This activity authorizes discharges of dredged or fill material for soil investigations and survey activities, including core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil survey and sampling, and historic resources surveys. The discharge of drilling mud and cuttings may require a permit under section 402 of the Clean Water Act. All discharges authorized by this activity must comply with the activity-specific threshold listed below, in addition to the general conditions of this permit. Discharges that do not meet the thresholds and conditions do not qualify for authorization under Category I, will require submission of an application, and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Threshold:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

Soil Investigations, continued

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity does not authorize discharges and structures associated with the recovery of historic resources.
- iv) This activity does not authorize drilling and the discharge of excavated material from test wells for oil and gas exploration. This activity does authorize plugging these wells.
- v) This activity does not authorize discharges of fill placed for roads, pads and other similar structures and activities.
- vi) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- vii) This activity does not authorize any permanent structures.

2. Percolation Tests:

This activity authorizes discharges of dredged or fill material associated with percolation tests for sewage disposal fields. All discharges authorized by this activity must comply with the activity-specific threshold listed below, in addition to the general conditions of this permit. Discharges that do not meet the threshold and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 404 only)

- a. **Impact Threshold:** Total impact to nontidal wetlands is limited to less than 5,000 square feet. The acreage of impact to nontidal wetlands includes the filled area plus nontidal wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing.

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.

Survey Markers or Monuments

3. **Survey Markers or Monuments:**

This activity authorizes discharges of dredged or fill material associated with placement of survey markers or survey monuments. All discharges authorized by this activity must comply with the activity-specific threshold listed below, in addition to the general conditions of this permit. Discharges that do not meet the thresholds and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Threshold:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. **Conditions:**

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

4. **Scientific Measurement Devices:**

This activity authorizes discharges of dredged or fill material associated with devices whose purpose is to measure and record scientific data, such as staff gages, tide gages, water recording devices, water quality testing and improvement devices, small weirs and flumes constructed to record water quantity and velocity, and similar structures. All work authorized by this activity, including the authorized discharges, must comply with the activity-specific threshold listed below, in addition to the general conditions of this permit. All work, including discharges, that do not meet the threshold and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Threshold:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus

Scientific Measurement Devices, continued

streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

CATEGORY I ACTIVITIES

D. Repair and Maintenance Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **General Maintenance:**

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes or safety standards that are necessary to make the repair, rehabilitation or replacement. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance. Currently serviceable does not mean a structure or fill that is so degraded that it essentially requires reconstruction. This activity also authorizes repair, rehabilitation or replacement of structures destroyed by storms, floods, fire or other discrete events. All work authorized by this activity, including discharges, must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that do not meet these thresholds and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet.

General Maintenance, continued

The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation or replacement.
- iv) The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- v) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- vi) Repair, rehabilitation or replacement of structures destroyed by storms, floods, fire or other discrete events must be started or under contract to start within two years of the date that they were damaged or destroyed.
- vii) This activity does not authorize maintenance dredging, beach restoration and repair or replacement of bulkheads.
- viii) This activity does not authorize blasting or other forms of uncontained in-water demolition.

2. Armoring Bridges and Causeways:

This activity authorizes discharges of dredged or fill material associated with armoring or strengthening bridges or causeways, including excavation to construct a toe for placement of riprap armoring. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

Armoring Bridges and Causeways, continued

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

- b. **Conditions:**

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The armoring must not extend more than 10 feet from the existing structure.
- iv) This activity does not authorize dredging.
- v) The armoring must not impede flow in the waterway.
- vi) The armoring material must not extend into a marked navigation channel.
- vii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

3. Bulkhead Repair or Replacement:

This activity authorizes discharges of dredged or fill material associated with repair or replacement of deteriorating or damaged bulkheads. This activity also authorizes the placement of concrete along the base of the bulkhead. All work authorized by this activity, including authorized discharges, must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** The bulkhead repair or replacement must not extend more than 18 inches channelward of the existing structure, measured from the channelward face of the existing piling to the landward face of the proposed sheeting.

Bulkhead Repair or Replacement, continued

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The length of the replacement bulkhead may *not* extend along the shoreline beyond the existing bulkhead.
- iv) The existing bulkhead must be functional.
- v) If the bulkhead repair or replacement includes placement of concrete or stone along the base of the bulkhead, the concrete or stone must be clean and free of rebar.
- vi) Concrete or stone placed along the base of the replacement bulkhead must not extend more than 10 feet channelward of the bulkhead.

4. Maintenance of Tidal Roadside Ditches:

This activity authorizes maintenance clean-out of tidally influenced roadside drainage ditches and their outlets. All work authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. All work that does not meet these thresholds and conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 10 only; with activity specific conditions, not subject to Section 404)

- a. **Impact Thresholds:** Impact to ditches and wetlands is limited to 500 linear feet, with a total impact to ditches and wetlands of less than 5,000 square feet. The acreage of impact to ditches and wetlands includes the excavated area plus ditches and wetlands that are adversely affected by the project through filling, flooding, draining, and mechanized landclearing. For linear projects, impacts to ditches and wetlands are measured along the centerline of the project.

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The clean-out activities must be conducted mechanically.

Maintenance of Tidal Roadside Ditches, continued

- iii) The maintenance must not enlarge or change the length, width, depth, and shape of the ditch from its original design dimensions and configurations.
- iv) The excavated material must be disposed of in an upland area (utilization of existing ditch banks/berms is acceptable).
- v) The excavated material must be placed in locations where the materials do not fill adjacent wetlands.
- vi) The excavated material must be placed in locations where the materials do not endanger the stability of the ditch.
- vii) The excavated material must be placed in locations where the materials do not wash back into the ditch.
- viii) The excavated materials must be placed in locations where the materials do not restrict or impede the movement of aquatic species indigenous to waters or the passage of normal or expected high flows.
- ix) The excavated materials must be placed in locations where the materials do not adversely impact the function of the natural floodplain.
- x) Any adjacent wetlands temporarily disturbed during maintenance clean-out operations must be restored to their pre-existing elevations to enhance reestablishment of wetlands. However, placement of the excavated materials in Waters of the United States, including wetlands, is not authorized by this activity.
- xi) This activity authorizes work only in roadside ditches and their outlets that are subject to the ebb and flow of the tide.

CATEGORY I ACTIVITIES

E. Fill Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **Minor Nontidal Fills:**

This activity authorizes discharges of dredged or fill material in nontidal wetlands and nontidal streams. All discharges authorized by this activity must comply with the activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. **Conditions:**

- i) Application must be submitted to MDE.

Minor Nontidal Fills, continued

- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity does not authorize the construction of permanent dikes, dams, water withdrawals, or water diversions.
- iv) This activity authorizes work only in nontidal wetlands and nontidal streams. For the purposes of this activity, nontidal wetlands are defined as those jurisdictional wetlands that are located landward of the spring high tide line and that are not subject to the ebb and flow of the tide.
- v) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

2. Underground and Overhead Utility Lines:

This activity authorizes discharges of dredged or fill material associated with excavation, backfill and bedding for utility lines. A utility line is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable or slurry substance. Utility line also includes any cable, line or wire for the transmission of electricity, telephone and telegraph messages, radio, television or other communication. This activity also authorizes mechanized land clearing, construction of temporary and permanent access roads for the utility line, and foundations associated with overhead utility lines. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Thresholds:** Impact to non-navigable streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands not to exceed 0.25 acre (10,890 square feet). The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. Impacts to streams and wetlands are measured along the centerline of the utility, across streams and wetlands.
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.

Underground and Overhead Utility Lines, continued

- iii) The utility line must not cross navigable Waters of the United States.
- iv) Pipe diameter for underground **water and sewer lines** must not exceed 8 inches.
- v) Pipe diameter for underground **natural gas lines** must not exceed 12 inches.
- vi) The utility line must be constructed roughly perpendicular to Waters of the United States, including streams and wetlands. If the utility line is placed within a jurisdictional area (i.e., a Water of the United States), and it runs parallel to a streambed that is within that jurisdictional area, the activity does not qualify for authorization under Category I and will be reviewed under Category III.
- vii) All temporary and permanent crossings of waterbodies must be culverted, bridged, or designed in some other manner so that they will withstand, but not restrict, expected high flows.
- viii) All temporary and permanent crossings of waterbodies must not restrict low flows.
- ix) All temporary and permanent crossings of waterbodies must not restrict the movement of aquatic organisms.
- x) Areas impacted for installation of utility lines, temporary access roads, or other temporary activities or structures, must be returned to preconstruction contours.
- xi) Excavated material must be stabilized with straw bales, silt fence, or other sediment and erosion control measures to prevent reentry of soil into Waters of the United States.
- xii) Excavated material must not be stockpiled in wetlands for longer than 30 days.
- xiii) Utility line construction across streams must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- xiv) When underground utility lines are installed in streams and wetlands, bedding material must not promote drainage of the streams and wetlands. Clay plugs, impervious membranes, or other materials must

Underground and Overhead Utility Lines, continued

be placed in the trenches to reduce drainage through the backfill material.

- xv) In wetlands, the top 6 to 12 inches of the trench should be backfilled with the top 6 to 12 inches of topsoil removed from the trench.
- xvi) Immediately after construction of the utility line is completed, excess material must be removed to upland areas and stabilized with straw bales, silt fence or other sediment and erosion control devices to prevent its reentry into Waters of the United States, including wetlands.
- xvii) Exposed slopes and stream banks must be stabilized immediately after construction of the utility line is completed.
- xviii) In some instances, a proposed water or sewer line will extend service to currently undeveloped residential lots that have been platted partially or totally in wetlands. In these cases, extension of sewer and/or water service to such lots may be the impetus for lot owners to propose to fill wetlands on the lots for construction of homes. Under these circumstances, the utility line does not qualify for authorization under Category I and will be reviewed under Category III.

3. Road Crossings:

This activity authorizes discharges of dredged or fill material associated with construction of roads crossing Waters of the United States, including streams and wetlands. All work authorized by this activity, including discharges, must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. All work, including discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands not to exceed 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. Impacts to streams and wetlands are measured along the centerline of the road, across streams and wetlands.

- b. **Conditions:**

- i) Application must be submitted to MDE.

Road Crossings, continued

- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The width of the fill must be limited to the minimum necessary for the actual crossing.
- iv) The road crossing must be constructed roughly perpendicular, if possible, to Waters of the United States, including streams and wetlands.
- v) The crossing must be culverted, bridged or designed in some other manner so that it will withstand, and not restrict, expected high flows and tidal flows.
- vi) Road construction across streams must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- vii) The crossing must not restrict low flows.
- viii) The crossing must not restrict the movement of aquatic organisms.
- ix) The crossing must not be used as a berm for a permanent impoundment.
- x) Exposed slopes and stream banks must be stabilized immediately after construction of the road crossing is completed.

4. Structural Discharges:

This activity authorizes discharges of clean material into tightly sealed forms or cells used as structural members for standard pile supported structures, such as piers and docks, and minor projects, such as bridges, transmission line footings and walkways. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 404 only)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to

Structural Discharges, continued

streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity does not authorize structural discharges in navigable Waters of the United States.
- iv) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- v) The structural discharges must not be used to support buildings, homes, parking areas, storage areas and other similar structures.

5. Dry Fire Hydrants:

This activity authorizes discharges of dredged or fill material associated with installation and maintenance of dry hydrants. All work authorized by this activity, including discharges, must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands. Up to 25 cubic yards of sediment may be removed from the hydrant intake.

b. Conditions:

- i) Application must be submitted to MDE.

Dry Fire Hydrants, continued

- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The dry hydrants must be installed for the purpose of providing water for fire fighting.
- iv) Sediment removed from hydrant intakes must be deposited and retained in an upland (non-wetland) area.
- v) This activity does not authorize sediment removal from wetlands or submerged aquatic vegetation beds.
- vi) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

6. Clearing Debris and Windfalls:

This activity authorizes discharges of dredged or fill material associated with removal of debris and windfalls from shorelines and banks. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity does not authorize equipment working in streams.
- iv) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

Clearing Debris and Windfalls, continued

- v) This activity does not authorize dredging, shoal removal, or riverbank snagging.

CATEGORY I ACTIVITIES

F. Fish and Wildlife Harvesting, Enhancement and Attraction Devices and Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. Dredging Seafood Products:

This activity authorizes discharges of dredged or fill material associated with dredging seafood products by any licensed operator including normal leased bottom activities permitted under Natural Resources Article, Title 4, Subtitle 11, Annotated Code of Maryland, and COMAR 08.02.08.12 or harvesting submerged aquatic vegetation. (Sections 10 and 404)

Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.

2. Fish and Wildlife Harvesting Devices:

This activity authorizes discharges of dredged or fill material or structures associated with fish and wildlife harvesting devices and activities such as pound nets, crab traps, eel pots, lobster traps, duck blinds, clam and oyster digging, and small fish attraction devices such as open water fish concentrators (sea kites, etc.).

Fish and Wildlife Harvesting Devices, continued

This activity also authorizes shellfish seeding. All work authorized by this activity, including authorized discharges, must comply with the activity-specific threshold and condition listed below, in addition to the general conditions of this permit. All work, including discharges, that do not meet the threshold and conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Threshold:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

- b. **Conditions:**

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The harvesting devices must be legally permitted by the State.
- iv) Shellfish seeding must not occur in wetlands or sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist, but may not be present in a given year.).
- v) This activity does not authorize artificial reefs.
- vi) This activity does not authorize impoundments and semi-impoundments of Waters of the United States for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks.

- 3. **Bass Spawning Boxes:**

This activity authorizes temporary installation of bass spawning boxes in tidal waters. Spawning boxes authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Spawning boxes that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 10 only)

Bass Spawning Boxes, continued

Conditions:

- i) No application is required (Refer to page 47 for exceptions.)
- ii) Spawning boxes may be in place only from March 1 through June 15 annually.
- iii) Spawning boxes must be installed outside of marked navigation channels.

CATEGORY I ACTIVITIES

G. Boating/Navigation-Related Structures and Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. Channel and Harbor Navigation Aids:

This activity authorizes placement of aids to navigation and regulatory markers. All navigation aids authorized by this activity must comply with the activity-specific condition listed below, in addition to the general conditions of this permit. Aids to navigation that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) Channel and harbor navigation aids must be approved by, and installed in accordance with, the requirements of the United States Coast Guard.

2. State Regulatory Markers:

This activity authorizes placement, by the State of Maryland, of regulatory and informational markers that do not require approval by the United States Coast Guard. All regulatory and informational markers authorized by this activity must comply with the general conditions of this permit. Regulatory and informational

State Regulatory Markers, continued

markers that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 10 only)

Condition: No application is required. (Refer to page 47 for exceptions.)

3. Piers:

This activity authorizes private, non-commercial piers that meet the criteria in COMAR 26.24.04.02. Piers authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Piers that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) Application must be submitted to MDE.
- ii) The project must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity authorizes only 1 pier, and 4 boat hoists or lifts per property.
- iv) The width of the main section of the pier must not exceed 6 feet.
- v) The total area of all fixed and floating auxiliary platforms including Ts, Ls, and step down platforms must not exceed 200 square feet and must not be located over vegetated wetlands.
- vi) Platforms must not be constructed within the landward 50% of the main pier section.
- vii) The project must not create more than 4 boat slips.
- viii) The project must not include more than 2 osprey poles per property.
- ix) The project must not include more than 2 three-pile dolphins.
- x) The project must not include more than two, 3-foot wide finger piers, and the finger piers must not exceed 50 percent of the proposed slip length.

Piers, continued

- xi) The finger piers must be constructed on the landward side of the end of a private pier.
- xii) The project must meet the minimum extended property line setback requirements established by the local jurisdictions in which the activity is proposed.
- xiii) In localities where there are no set back requirements, the structure(s) must be constructed in a manner that does not obstruct ingress and egress from adjacent properties.
- xiv) Piers over vegetated tidal wetlands must be constructed a minimum of 3 feet above the wetlands.
- xv) Piers must not extend within 100 feet of a ski course approved by MDE.
- xvi) Piers must not extend more than a distance of 25 percent of the width of the waterway, channelward of the mean high water line and/or vegetated tidal wetlands; provided the pier does not come within 20 feet of a marked or commonly used channel (natural deep water) or within 150 feet of the horizontal limits of a Corps navigation channel.
- xvii) The project must not obstruct the flow of the tide.
- xviii) This activity does not authorize dredging.

4. Marina Reconfiguration:

This activity authorizes reconfiguring an existing marina. Reconfigurations authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Reconfigurations that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) Application must be submitted to MDE.
- ii) The work must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity does not authorize dredging.
- iv) There must be no increase in the boundaries of the marina.

Marina Reconfiguration, continued

- v) There must be no increase in channelward encroachment beyond existing piers and associated structures.
- vi) Pilings must not be placed so closely together that they constitute fill.

5. Boat Ramp Expansions:

This activity authorizes discharges of dredged or fill material associated with expansion of existing boat ramps. Discharges authorized by this activity must comply with the activity-specific thresholds listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** The width of the boat ramp is limited to 12 feet or less, and cannot extend more than 30 feet channelward of the mean high water line.

- b. **Conditions:**

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) This activity authorizes the discharge of concrete, rock, crushed stone or gravel into forms, or placement of precast concrete planks or slabs over base materials of crushed stone, gravel, or other suitable material. Total volume of material used for the ramp and base must not exceed 50 cubic yards.
- iv) This activity does not authorize use of unsuitable material that causes unacceptable chemical pollution or that is structurally unstable.
- v) The base material must be crushed stone, gravel or other suitable material.
- vi) Excavation must be limited to the area necessary for site preparation.
- vii) All excavated material must be removed to upland (non-wetland) areas and stabilized with straw bales, silt fence, or other sediment and erosion control measures to prevent reentry of soil into Waters of the United States.

Boat Ramp Expansions, continued

- viii) Material must not be placed in special aquatic sites, including wetlands.
- ix) This activity does not authorize dredging to provide access to the boat ramp.

6. Boat Ramp Construction or Repair:

This activity authorizes discharges of dredged or fill material associated with construction or repair of boat ramps. Discharges authorized by this activity must comply with the activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** The width of the boat ramp is limited to 12 feet or less, and the boat ramp cannot extend more than 30 feet channelward of the mean high water line.
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) This activity authorizes the discharge of concrete, rock, crushed stone or gravel into forms, or placement of precast concrete planks or slabs over base materials of crushed stone, gravel, or other suitable material. Total volume of material used for the ramp and base must not exceed 50 cubic yards.
 - iv) This activity does not authorize use of unsuitable material that causes unacceptable chemical pollution or that is structurally unstable.
 - v) The base material must be crushed stone, gravel or other suitable material.
 - vi) Excavation must be limited to the area necessary for site preparation.
 - vii) All excavated material must be removed to upland (non-wetland) areas and stabilized with straw bales, silt fence, or other sediment and erosion control measures to prevent reentry of soil into Waters of the United States.

Boat Ramp Construction or Repair, continued

- viii) Material must not be placed in special aquatic sites, including wetlands.
- ix) This activity does not authorize dredging to provide access to the boat ramp.

7. Mooring Buoys:

This activity authorizes placement of mooring buoys. All mooring buoys authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Mooring buoys that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) Only non-commercial, single-boat mooring buoys can be authorized by the activity.
- iii) The mooring buoy(s) must not be placed in a marked navigation channel or block ingress or egress from adjacent properties.

8. Structures in Fleeting and Anchorage Areas:

Structures, buoys, floats, and other devices placed within anchorage areas or fleeting areas to facilitate mooring vessels. All structures and devices authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Structures and devices that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The anchorage or fleeting areas must be established for these purposes by the U. S. Coast Guard.

9. Temporary Recreational Structures:

This activity authorizes temporary recreational buoys, markers, small floating docks, and similar structures for seasonal recreational use or for recreational use during special events. All structures and devices authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general

Temporary Recreational Structures, continued

conditions of this permit. Structures and devices that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only)

Conditions:

- i) Application must be submitted to MDE.
- ii) The buoys, markers and structures must be removed within 30 days after the special event is concluded.
- iii) The buoys, markers and structures must be placed at least 50 feet, or a distance of three times the depth of the authorized channel, whichever is greater, from any Corps civil works project or Corps navigation channel.

10. Removal of Vessels:

This activity authorizes temporary structures or minor discharges of dredged or fill material required for removal of wrecked, abandoned, or disabled vessels, or removal of man-made obstructions to navigation. All structures and discharges authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Structures or discharges that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) This activity does not authorize removal of vessels listed or determined eligible for listing on the National Register of Historic Places.
- iii) This activity does not authorize maintenance dredging, shoal removal, or river bank snagging.

Removal of Vessels, continued

- iv) Temporary structures must be removed immediately when work is complete.

CATEGORY I ACTIVITIES

H. Shoreline/Bank Stabilization Activities

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

Shoreline and bank stabilization activities will be reviewed based on the following order of preference: a) nonstructural shoreline stabilization, including beach nourishment, marsh creation, root wads and other similar measures; b) shoreline revetments, breakwaters, groins, and similar structures designed to ensure establishment and long-term viability of nonstructural shoreline stabilization projects; c) shoreline revetments; d) breakwaters; e) groins; and f) bulkheads.

1. **Revetment/Bulkhead Armoring:**

This activity authorizes addition of stone or broken concrete to a revetment or bulkhead. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Armoring discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only, with Section 404 discharges)

- a. **Impact Thresholds:** The work must not extend more than 10 feet channelward of the existing structure (i.e., revetment or bulkhead) and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV) for each 500 foot section of armoring. Armoring is limited to the length of the existing bulkhead or revetment.

Revetment/Bulkhead Armoring, continued

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) Material used must be clean stone, or if broken concrete is used for armoring, it must be clean and free of rebar.
- iv) The work must not involve reclaiming eroded land.
- v) No material must be of the size or type, or placed in any location or in any manner, such that it impairs surface water flow into or out of any wetland area.

2. New Revetments:

This activity authorizes placement of a revetment for shore erosion control. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only, with Section 404 discharges)

- a. **Thresholds:** The revetment is limited to 500 linear feet along the shoreline, must not extend more than 10 feet channelward of the mean high water line and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV).

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The revetment must be constructed parallel to the uplands.
- iv) The revetment must be constructed as close to the uplands as structurally feasible.
- v) This activity does not authorize reclaiming eroded land.

New Revetments, continued

- vi) No material must be of the size or type, or placed in any location or in any manner, such that it impairs surface water flow into or out of any wetland area.
- vii) Filter cloth must be used to prevent soil from washing into the waterway.
- viii) Material used must be clean stone or, if broken concrete is used for the revetment, it must be clean and free of rebar.

3. Vegetative Stabilization:

This activity authorizes discharges of fill material and the construction of stone containment structures such as groins or low profile stone sills, in unvegetated shallow water along shorelines. All work, including discharges, authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Vegetative stabilization discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only, with Section 404 discharges)

- a. **Impact Thresholds:** Total impact is limited to 500 linear feet, with a total impact to unvegetated shallow Waters not to exceed 17,500 square feet.
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) The purpose of the activity must be shoreline erosion control.
 - iv) The fill and containment structures must not extend more than 35 feet channelward of the mean high water line.
 - v) The fill must be placed parallel to the upland.
 - vi) The fill material used must be clean substrate, no more than 10% of which shall pass through a standard number 100 sieve.
 - vii) The marsh establishment area must be planted within one year following completion of the filling operation.

Vegetative Stabilization, continued

- viii) The marsh establishment area must be maintained as a wetland, with non-nuisance species aerial coverage of at least 85% for three consecutive years. If 85% coverage is not attained, the reasons for failure must be determined, corrective measures must be taken and the area must be replanted.
- ix) If the fill is graded hydraulically, a turbidity curtain must be placed around the perimeter of the instream work.
- x) If a sediment and erosion control plan is required for clearing or grading of the existing bank, it must be obtained from the applicable sediment and erosion control agency before beginning the clearing or grading.

4. Shore Erosion Control Structures (Not Revetments):

This activity authorizes discharges of dredged or fill material associated with construction of a shore erosion control structure. All discharges authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these thresholds and conditions do not qualify for authorization under Category I and will be reviewed under Category III. (Section 10 only, with Section 404 discharges)

- a. **Impact Thresholds:** The erosion control structure is limited to 300 feet in length, must not exceed 10 feet channelward of the mean high water line and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV).
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) Only shore erosion control structures other than revetments are authorized by this activity.
 - iv) The erosion control structure must be constructed parallel to the uplands.

Shore Erosion Control Structures (Not Revetments), continued

- v) The erosion control structure must be constructed as close to the uplands as structurally feasible.
- vi) This activity does not authorize reclaiming eroded land.
- vii) No material must be of the size or type or placed in any location or in any manner, so as to impair surface water flow into or out of any wetland area.
- viii) Filter cloth must be used or the project must otherwise be designed and constructed to prevent soil from washing into the waterway.

5. Nontidal Bank Stabilization:

This activity authorizes discharges of dredged or fill material associated with installation of nontidal bank stabilization structures such as revetment, root wads, bulkheads and gabions. All work, including discharges, authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these conditions does not qualify for authorization under Category I and will be reviewed under Category III. (Section 404)

- a. **Impact Thresholds:** The erosion control structure is limited to 500 feet in length and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV).
- b. **Conditions:**
 - i) Application must be submitted to MDE.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
 - iii) No material must be placed in excess of the minimum needed for erosion protection.
 - iv) The material must cover only the minimum necessary for bank stabilization, and must have no more than minimal effect on the stream bottom.
 - v) Discharges must not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark.

Nontidal Bank Stabilization, continued

- vi) No material must be of the size or type or placed in any location or in any manner, so as to impair surface water flow into or out of any wetland area.
- vii) Filter cloth must be used or the project must otherwise be designed and constructed to prevent soil from washing into the waterway.
- viii) If stone revetment is used, the following additional conditions apply:
 - (1) Material used must be clean stone or, if broken concrete is used for the revetment, it must be clean and free of rebar.
 - (2) The revetment must be constructed with material of appropriate size or class to prevent it from being washed into the waterway.
- ix) The bank stabilization structure must be constructed as close to the bank as possible.
- x) The bank stabilization must not involve reclaiming eroded land.

CATEGORY I ACTIVITIES

I. Return Water

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

Return Water:

This activity authorizes the discharge of return water from upland, contained dredge material disposal areas. (Section 404 only)

Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.

CATEGORY I ACTIVITIES

J. Cleanup of Oil and Hazardous and Toxic Waste

The following activities are authorized under the Maryland State Programmatic General Permit (MDSPGP) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP and the applicable Category I activity description(s).

Activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP), and generally will be reviewed by the Corps under Category III.B (p. 48 of the MDSPGP Category List).

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year.

1. **Oil Spill Cleanup:**

This activity authorizes discharges of dredged or fill material associated with activities required to contain and clean up oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan. All work, including discharges, authorized by this activity must comply with all activity-specific thresholds and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these thresholds and conditions does not qualify for authorization under Category I and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

Oil Spill Cleanup, continued

b. Conditions:

- i) Application must be submitted to MDE.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The work must be conducted in accordance with the Spill Control and Countermeasure Plan and any State contingency plan.
- iv) The Regional Response Team, if one exists, must concur with the proposed containment and cleanup action.

2. Hazardous and Toxic Waste Cleanup:

This activity authorizes discharges of dredged or fill material associated with activities required to contain, stabilize or remove hazardous or toxic waste materials. Activities undertaken entirely on a CERCLA site by authority of CERCLA, as approved or required by EPA, are not required to obtain federal authorization under section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. All work including discharges, authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Work, that does not meet these conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III. (Sections 10 and 404)

- a. **Impact Thresholds:** Impact to streams and wetlands is limited to 500 linear feet, with a total impact to streams and wetlands of less than 5,000 square feet. The acreage of impact to streams and wetlands includes the filled area plus streams and wetlands that are adversely affected by the project through flooding, draining, or mechanized landclearing. For linear projects, impacts to streams and wetlands are measured along the centerline of the project, across streams and wetlands.

b. Conditions:

- i) No application is required. (Refer to page 47 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent.
- iii) The activities must be performed, ordered or sponsored by a government agency with established legal or regulatory authority.

Hazardous and Toxic Waste Cleanup, continued

- iv) Court ordered remedial action plans or related settlements are also authorized by this activity.
- v) The work must be conducted in accordance with the National Contingency Plan.
- vi) This activity does not authorize establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

CATEGORY II ACTIVITIES

The following activities may be authorized under the Maryland State Programmatic General Permit (MDSPGP) after review by the Corps provided the proposed regulated activities comply with all terms, conditions, best management practices and processing procedures identified and required by the MDSPGP.

For purposes of the MDSPGP, the discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. The acreage of impact to Waters of the United States includes the filled area plus Waters of the United States that are adversely affected by the project through flooding, draining, or mechanized landclearing.

A. Activities In or Near Corps Navigation and Civil Works Projects

1. Activities In or Near Corps Navigation Projects:

This activity applies to Category I projects that extend closer than 150 feet of the horizontal limits of any Corps navigation project. Structures or work that exceed the Category I thresholds and conditions and that extend closer than 150 feet of the horizontal limits of any Corps navigation project will be reviewed under Category III.A or III.B or IP procedures, as appropriate. **Application must be submitted to MDE.**

2. Activities In or Near Corps Civil Works Projects:

This activity applies to Category I projects that are proposed adjacent to or in any proposed or existing Corps civil works project other than a navigation project. Structures or work that exceed the Category I thresholds and conditions and that are proposed adjacent to or in any Corps civil works project will be reviewed under Category III.A, III.B or IP procedures, as appropriate. **Application must be submitted to MDE.**

B. Activities Grandfathered by MDE

Grandfathered Activities:

This activity applies to Category I projects that are grandfathered from MDE's permit requirements. Grandfathered activities that exceed the Category I thresholds and conditions will be reviewed under Category III.A or IP procedures, as appropriate. **Application must be submitted to MDE.**

C. Activities Exempt from MDE's Permit Requirements

State Exempt Activities:

This activity applies to Category I projects that require Federal authorization under Section 10 and/or 404 and that meet the thresholds and conditions of Category I, but that are exempt under applicable State law (i.e., Category I

Category II, continued

activities A1-5, B1-2,). Activities that require Federal authorization under Section 10 and/or 404, but that do not meet the thresholds and conditions of Category I and are exempt from MDE's permit requirements, will be reviewed under Category IIIA or IP procedures, as appropriate. **Application must be submitted to MDE.**

D. Special Area Management Plans (SAMPs)

SAMPs:

This activity applies to Category I projects that are proposed within a designated SAMP area. Activities within a designated SAMP area that exceed the Category I thresholds and conditions will be reviewed under Category III.A, III.B or IP procedures, as appropriate (Sections 10 and 404). **Application must be submitted to MDE.**

E. Denials and Violations

1. Denials:

This activity applies to Category I projects that have been denied State authorization pursuant to the Maryland Nontidal Wetlands Protection Act, the Tidal Wetlands Act, or the Waterway Construction Act, or that have been denied Water Quality Certification or a Coastal Zone Consistency determination. This activity also applies to Category I projects that have been denied DA authorization under Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act. This activity also applies to projects that have not themselves been denied one of these authorizations, but that are part of a project that has been denied. Projects that exceed the Category I thresholds and conditions and that have been denied one of these authorizations, or that are part of a project that has been denied, will be reviewed under Category III.A, III.B, or IP procedures, as appropriate. **Application must be submitted to MDE.**

2. Violations:

This activity applies to Category I projects that are proposed for authorization for the purpose of resolving violations of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. This activity also applies to Category I projects that are not themselves violations, but that are part of a project that is a violation, or that occur on the same property as a violation. Projects that exceed the Category I thresholds and conditions and that are violations, are part of a project that is a violation, or that occur on the same property as a violation will be reviewed under Category III.A, III.B, or IP procedures, as appropriate. **Application must be submitted to MDE.**

CATEGORY III ACTIVITIES

The following activities may be authorized under the Maryland State Programmatic General Permit (MDSPGP) after review by the Corps and coordination with appropriate state and federal resource agencies, provided the proposed activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP.

For purposes of the MDSPGP, the discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. The acreage of impact to Waters of the United States includes the filled area plus Waters of the United States that are adversely affected by the project through flooding, draining, or mechanized landclearing.

Category III activities that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special state concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, generally require a permit from the Maryland Department of the Environment (MDE) and generally will be reviewed by the Corps under Category III.B, below.

A. State Permit Public Notice Not Required

State Permit Public Notice Not Required:

This activity authorizes work that does not meet the terms and conditions of any activity described in Categories I or II, and that impacts no more than one acre of nontidal or tidal Waters of the United States, including wetlands. These activities require a 30-day notification to the following agencies: Environmental Protection Agency, Fish and Wildlife Service, National Marine Fisheries Service, Maryland Historical Trust, Maryland Department of Natural Resources, and Maryland Department of the Environment.

B. State Permit Public Notice Required

State Permit Public Notice Required:

This activity authorizes work that does not meet the terms and conditions of any activity described in Categories I or II, and that impacts no more than one acre of nontidal or tidal Waters of the United States, including wetlands. These activities require a 30-day joint Corps/MDE public notice and generally either a Tidal Wetlands license or permit or a Nontidal Wetlands and Waterways permit from MDE.